IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

MONDAY, THE 19TH FEBRUARY 2007 / 30TH MAGHA 1928

WP(C).No. 34272 of 2006(E)

PETITIONER:

PADMAKUMARI G.S.,
(HOSPITAL ATTENDANT, GOVT. AYURVEDA DISPENSARY,
PULLAMPARA, THIRUVANANTHAPURAM),
PLANTHARA VEEDU, VALIYAKATTAKKAL,
VENJARAMOODU P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.K.P.RAJEEVAN
SRI.MATHEW KORAH

RESPONDENTS:

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1. STATE OF KERALA,
REP. BY ITS SECRETARY,
HEALTH DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

2. DISTRICT MEDICAL OFFICER (ISM),
THIRUVANANTHAPURAM.

3. MEDICAL OFFICER,
GOVT. AYURVEDA DISPENSARY,
PULLAMPARA, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF ORDER 5.1.2005 ISSUED BY THE 2ND RESPONDENT.

EXT.P2 TRUE COPY OF ORDER 1.7.2006 ISSUED BY THE 2ND REPSONDENT.

TRUE COPY

P.A.TO JUDGE

K.K.DENESAN, J

W.P.(C)NO.34272 of 2006

Dated this the 19th day of February, 2007

JUDGMENT

The petitioner was appointed as Hospital Attender in the Government Ayurveda Dispensary. The designation of the petitioner is wrongly shown in the writ petition as Hospital Attendant. This wrong statement will go to the root of the matter, for nomenclature of the post is the most relevant factor. The former post viz., Hospital Attendant is included in the special rules i.e. Kerala Indigenous Medicine Subordinate Service (amendment) Rules 1983. Under the above rules, Attender Grade-I is category 11 and Attender Grade II is category 12. Hospital Attendant in the Health Services Department is a post coming within the last grade service.

2. One of the methods of recruitment to the post of Hospital Attendant as laid down in the Last Grade Service Rules is direct

recruitment from candidates sponsored by the Employment Exchange hands as well, whereas the post of Attender Grade II which comes within the subordinate service is a promotion post of last grade service people. As far as posts within the last grade service are concerned, Rule 9 of KS&SSR has no application. The post of Attender Grade II which comes within the subordinate service is governed by Rule 9 as also the other provisions of the KS&SSR. The petitioner was appointed as per Ext.P1 order for a period of 179 days. Evidently, the term prescribed has relevance in the context of Rule 9, as aforesaid. The term of the service of the petitioner was extended as per Ext.P2, on completion of 179 days, making it clear that the further term will also be for 179 days or Public Service Commission hands join duty.

3. The contention raised by the petitioner is based on the decision of this Court in **Vasanthi v state of Kerala** (2006(1) KLT 288). Necessarily, the thrust is on the rights available under the provisions of the Special Rules for Last Grade Service. For reasons aforesaid, the said rules will not have any application to

the facts of this case. On the other hand, the provision which has application is Rule-9 of KS&SSR. That being the position, the petitioner cannot contend that she is eligible to continue in service, as though, she has been appointed on a regular basis. The distortion of facts by the petitioner to mislead this Court deserves to be taken serious note of and dealt with by imposing exemplary costs. I dismiss this writ petition. However,without any order as to costs, because the petitioner hails from poor circumstances and what she could gain is wages for a few more days work in one of the lowest categories in service; on the strength of the interim order. The petitioner is warned not to indulge in such gimmicks hereafter.

K.K.DENESAN, JUDGE

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